

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MICHAEL RICHARD, §
§
Plaintiff, §
v. § Civil Action No. **3:15-CV-3111-L**
§
STATE OF TEXAS, §
§
Defendant. §

ORDER

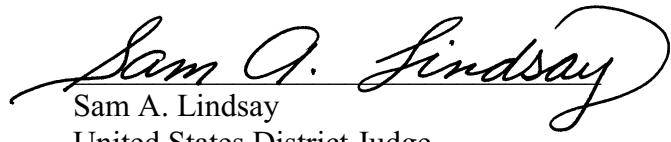
This case was referred to Magistrate Judge Irma Carrillo Ramirez, who entered Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) on October 29, 2015, recommending that the action be dismissed with prejudice as frivolous pursuant to 28 U.S.C. § 1915A(b) and counted as a “strike” or “prior occasion” under 28 U.S.C. § 1915(g). Plaintiff, who is incarcerated and proceeding *pro se*, filed objections to the Report.

Having reviewed the pleadings, file, objections, Report, and the record in this case, the court determines that the findings and conclusions of the magistrate judge are correct, **accepts** them as those of the court, and **dismisses with prejudice** this action as frivolous pursuant to 28 U.S.C. § 1915A(b). This dismissal shall count as a “strike” or “prior occasion” under 28 U.S.C. § 1915(g).

The court prospectively **certifies** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. 24(a)(3). In support of this certification, the court **accepts and incorporates** by reference the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir. 1997). The court concludes that any appeal of this action would present no legal point of arguable merit and would therefore be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir.

1983). In the event of an appeal, Plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with clerk of the United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. 24(a)(5).

It is so ordered this 24th day of November, 2015.


Sam A. Lindsay
United States District Judge